IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

WP(C).No. 6861 of 2007(P)

OS.84/2005 of MUNSIFF COURT, PUNALUR

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PETITIONER:

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1. LEELA, W/O LATE RAJAPPAN,
   NEDUMPARA ETTIVILA PUTHAN VEEDU,
   THENMALA VILLAGE, PATHANAPURAM TALUK,
   KOLLAM DISTRICT.

2. SUJA, D/O LEELA,
   NEDUMPARA ETTUVILA PUTHEN VEEDU,
   THENMALA VILLAGE, PATHANAPURAM TALUK,
   KOLLAM DISTRICT.

3. SURESH KUMAR,
   NEDUMPARA ETTUVILA PUTHEN VEEDU,
   THENMALA VILLAGE, PATHANAPURAM TALUK,
   KOLLAM DISTRICT.

4. RAVEENDRAN,
   NEDUMPARA ETTUVILA PUTHEN VEEDU,
   THENMALA VILLAGE, PATHANAPURAM TALUK,
   KOLLAM DISTRICT.

5. MINI,
   NEDUMPARA ETTUVILA PUTHEN VEEDU,
   THENMALA VILLAGE, PATHANAPURAM TALUK,
   KOLLAM DISTRICT.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS:

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1. JOSE,
   HARRISONS MALAYALAM PLANTATION QUARTERS,
   NEDUMPARA, THENMALA VILLAGE, PATHANAPURAM TALUK,
   KOLLAM DISTRICT.

2. BABYKUTTY,
   HARRISONS MALAYALAM PLANTATION QUARTERS,
   NEDUMPARA, THENMALA VILLAGE, PATHANAPURAM TALUK,
   KOLLAM DISTRICT.

3. MADHU,
THADATHIL VEEDU,
NEDUMPARA, THENMALA VILLAGE,
PATHANAPURAM TALUK, KOLLAM DISTRICT.

BY ADV. SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN
SRI.R.SURAJ KUMAR
SMT.GEETHA P.MENON

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1: THE TRUE COPY OF THE PLAINT IN O.S.NO:84/2005 OF THE MUNSIFF COURT, PUNALUR

EXT.P2: -DO- OF THE WRITTEN STATEMENT DT.29.7.2005 FILED BY THE PETITIONERS 1 TO 5 IN O.S.NO: 84/2005

EXT.P3: -DO- OF THE DECREE IN O.S.NO:126/2001 DT.29.11.2003 OF MUNSIFF COURT, PUNALUR

EXT.P4: -DO- OF THE JUDGMENT IN O.S.NO: 126/2001 DT.29.11.2003 OF MUNSIFF COURT, PUNALUR

EXT.P5: -DO- OF THE APPLICATION FILED BY THE PETITIONER IN O.S.NO:84/2005 DT.23.1.2006

EXT.P6: -DO- OF THE COUNTER FILED BY THE RESPONDENTS

EXT.P7: -DO- OF THE ORDER DT.8.8.2006 IN I.A.NO:237/2006 IN O.S.NO: 84/2005

jj /TRUE COPY/

P.A.TO JUDGE

M.N. KRISHNAN, J.

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W.P.(C) No.6861 OF 2007 P
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Dated this the 11th June, 2007

J U D G M E N T

This writ petition is filed seeking to quash the order Ext. P7 passed in I.A. No. 237/06 in O.S. No. 84/05. The prayer is to stay the proceedings in O.S. No. 84/2005 until the disposal of R.F.A. No. 22/2004. The petitioner before the trial court is the defendant in O.S. No. 84/2005. The defendant filed a suit O.S. No. 126/2001 and it was an injunction simpliciter suit which was decreed and an appeal is pending before the Subordinate Judge's Court, Kottarakkara. The other suit O.S. No. 84/2005 is for a declaration and injunction. The subject matter of the suit O.S. No. 84/2005 is having a larger magnitude and it may have to consider the question of title whereas in the suit O.S. No. 126/2001 the court is only concerned with the person in possession on the date of the institution of the suit. So, the suit with a larger relief cannot be

stayed under Section 10 of the C.P.C. as it will not serve any purpose. Therefore, the order passed by the learned Munsiff is in order and the writ petition is dismissed.

M.N. KRISHNAN
JUDGE

jan/